

start war anytime, anywhere across the globe without congressional authorization. Our Founding Fathers would be appalled.

Primary among our Founders' concerns was that the power to initiate war not be in the hands of one person. As Madison wrote in the *Federalist Papers*, the executive is the branch of government most prone to war. Therefore, the Constitution, with studied care, vested the war-making powers in the legislature.

To our Founders, initiation of war was the sole prerogative of Congress. But a great deal of discretion was given to the President in article II to execute the war. The neocons forever believed in this discretion. They said the war shouldn't be fought by 535 generals in Congress; we should give the President the freedom and power to execute the war. And, largely, they are correct—until they pop their heads up today and say, unless the President wants to stop a war, then we take it all back. What we really want is a President who can't execute a war or execute the end of a war without the permission of Congress.

Likely, our Founders would have agreed with the common complaint that we don't need 535 generals in Congress. In other words, success in war requires most decisions on executing the war to be in the hands of one person—the President. Even I, who have been opposed to most of the recent overseas activities and wars—even I believe that once Congress initiates it, most of the decisions should be made by the President.

The decision to go to war requires the consensus, the initiation—the beginning of war requires the consensus of 535 Members of Congress under the Constitution. It is very clear. They debated it over and over, and they said: Initiation, declaration of war, should be done by Congress. But the execution of the war would largely be left up to the President. Many, many current and former Members of Congress have agreed.

Representative LIZ CHENEY has argued that the nature of military and foreign policy demands the unity of the singular executive and that the Founders certainly did not intend, nor does history substantiate, the idea that Congress should legislate specific limits on the President's powers in wartime.

LIZ CHENEY, who is also, ironically, the author of this amendment to the NDAA, said we shouldn't limit the President's powers in times of war and then she authors a limitation on the President removing troops from war. So which is it? I guess she is only for this unitary power—she is only for this all-powerful Commander in Chief when they fight war. But if a President wants to end a war, oh, no, Congress has to stop them at all costs from ending a war.

I think what comes out of this is that the neoconservative philosophy isn't so

much about a unitary executive, isn't so much about an all-powerful Commander in Chief, the philosophy of these people is about war and substantiating war and making sure that it becomes and is perpetual war.

Senator GRAHAM said the one thing he has been consistent on is that “there is 1 Commander in Chief, not 535” these are his words “and I believe this Commander in Chief and all future Commanders in Chief are unique in our Constitution and have an indispensable role to play when it comes to protecting the homeland. If we have 535 commanders in chief, then we are going to be less safe.”

I guess, except for this bill, which actually creates 535 generals in Congress to tell the President, not just this President—and some of it is anger. It is partisan anger. People don't like President Trump—but this will bind all future Presidents. This isn't just about this President.

When LINDSEY GRAHAM says we don't want 535 Commanders in Chief, if this is his belief, he should vote against this bill because this bill creates 535 Commanders in Chief.

The late Senator McCain said: “It would be a very serious situation where we now have 535 commanders in chief . . . the President of the United States is the only commander.”

Senator INHOFE, the chairman of the Armed Services Committee, has said: “We don't need the 535 generals in Congress telling our troops how to win this fight,” except for we are going to pass a bill that I assume all of these folks will vote for that actually creates 535 generals in Congress to say to the President—to this one or any President—that he can't leave the theater in Afghanistan without their permission. It is a tragedy; it is hypocrisy; and it is a terrible bill.

Of course, there is also former Vice President Dick Cheney, who was adamant that the War Powers Resolution, which requires the President to simply report to Congress on matters of war, was unconstitutional as “an infringement of the president's authority as the commander in chief.”

Senator ALEXANDER also said “there is a reason why we don't have 535 commanders in chief or 100 commanding generals each saying charge down this street or over that hill.”

I tend to agree, except for it seems to be one-sided. These people seem to believe that we shouldn't have 535 generals in Congress when it is about initiating war. But when it comes to removing troops from the battle, when it comes to finally coming home after America's longest war in Afghanistan, they all say: Oh, no, no, no. You are wrong. We are not going to let you come home. We are going to restrict and restrain the powers of the Commander in Chief because we don't want to end the Afghan war.

It seems as if the only thing you can conclude is they really don't care about their theory of an all-powerful

Commander in Chief; they care more about perpetuating the Afghan war.

Until recently, this chorus of voices sang of nothing but the almighty, endless powers that Presidents have as Commander in Chief. That is, until a President arrived on the scene who wanted to reduce overseas troop levels and end America's longest war in Afghanistan. Then the promoters of a strong Commander in Chief suddenly jumped ship and began advocating the opposite. They began advocating that 535 Members of Congress should, indeed, become generals and should limit the President's ability to remove troops from Afghanistan.

Which is it? Are you for this unlimited power of the President to commence and execute war or are you only for it when they are initiating war, when they are continuing war, and against Presidential prerogative if the President chooses to end a war?

Shouldn't we call out this hypocrisy? Shouldn't someone stand up and express and expose this rank demagoguery? Shouldn't someone cry foul that the advocates of unlimited Presidential power want it only to apply when that President advocates for war? But the moment a President advocates to end a war or lessen overseas troops and these deployments, he or she must be shackled by 535 generals.

This Defense authorization bill could more aptly be called “A Bill to Prevent the President from Ending the Afghan War.” We never actually give the real titles to the bill, but that would be an accurate title: “A Bill to Prevent the President from Ending the Afghan War.”

As such, any serious advocate for ending the Afghan war should vote against this monstrosity. The neocon advocates for Presidential war powers should own up to their hypocrisy and admit that their love of perpetual war trumps their oft-stated unitary executive theory.

In reality, the neocons are enamored of their theory of unbounded Presidential power only when that power is used to foment war. The minute a President decides to end war, the neocons' true stripes are exposed as they beat their chest and proclaim—as 535 generals might—that the President will not be allowed to remove troops without congressional permission.

This bill sets a very dangerous precedent for limiting a President's power to end war and should be vigorously opposed.

The PRESIDING OFFICER (Mr. YOUNG). The Senator from Missouri.

DUCK BOAT SAFETY ENHANCEMENT ACT OF 2019

Mr. HAWLEY. Mr. President, July 19, 2018, is a date that we in Missouri won't ever forget. There were 17 people who lost their lives and 11 who were injured in a boating accident on Table Rock Lake. During a severe thunderstorm, a duck boat called Stretch Duck

7 sank with 31 people aboard, including children. Today marks 875 days since that tragedy.

To the families and friends who lost loved ones that day, I am sure that every one of those 875 days since has come with a new and painful reminder of your loss.

I am here today to honor those who lost their lives, the 17 victims of that tragedy—a tragedy that should never have happened—and also to honor the survivors who live with the memory of that tragedy every day. They deserve to be remembered. They deserve to be respected by this body, and I am here to do something about it. The time has come to act.

I am here to ask this body to do its job and finally pass my bill that will impose tough, new security restrictions and measures on every duck boat operation in America. This is a bill I introduced almost 2 years ago that passed the Committee on Commerce, Science, and Transportation unanimously.

Now, truth be told, it has taken this body far too long to act. The tragedy in Missouri may have been one of the more recent duck boat tragedies, but it is far from the first. In 1999, 13 people were killed when a duck boat sank during a tour of Lake Hamilton in Arkansas. In the years since, the death toll has climbed to over 40. In 2001, there was a duck boat accident in Seattle, WA. In 2010, a tugboat on the Delaware River in Philadelphia collided with a duck boat. In 2013, a duck boat caught fire in the San Francisco Bay. I could go on.

Now, the National Transportation Safety Board has issued numerous recommendations to improve duck boat safety, and it has issued many of these recommendations multiple times. The U.S. Coast Guard, which regulates these crafts, has recently concurred with quite a number of these recommendations. Yet, to be frank, we need more than recommendations. We need more than studies and surveys. We need laws. It has been 875 days, and we have seen investigation after investigation conclude the same thing: that lives could have been saved if action had been taken—if this body had acted, if the security measures had been put in place.

The time for delay has passed, and the time to act is now in order to save future lives and to make sure that the tragedy that happened in Branson is not repeated again in Missouri or in any other State.

My legislation would take those recommendations and put them into law. It includes provisions to ensure that duck boats remain buoyant during flooding. It requires dangerous canopies to be removed. It requires life jackets for passengers. My legislation would also ensure that duck boats would not go out during severe weather and also require the operators of duck boats to know what the weather is—a commonsense provision but one not currently required under the law.

I thank Senator BLUNT, Senator COTTON, and Senator DUCKWORTH for supporting this legislation and for their strong support for lifesaving provisions. I thank Chairman WICKER for moving this bill through the Committee on Commerce, Science, and Transportation, where, once again, it received unanimous support. Now it is time to make it the law of the land.

Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of S. 1031 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1031) to implement recommendations related to the safety of amphibious passenger vessels, and for other purposes.

There being no objection, the committee was discharged, and the Senate proceeded to consider the bill.

Mr. HAWLEY. I ask unanimous consent that the Hawley substitute amendment be agreed to; that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2698) in the nature of a substitute was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Duck Boat Safety Enhancement Act of 2020”.

SEC. 2. SAFETY REQUIREMENTS FOR AMPHIBIOUS PASSENGER VESSELS.

(a) SAFETY IMPROVEMENTS.—

(1) BUOYANCY REQUIREMENTS.—Not later than 1 year after the date of completion of a Coast Guard contracted assessment by the National Academies of Sciences, Engineering, and Medicine of the technical feasibility, practicality, and safety benefits of providing reserve buoyancy through passive means on amphibious passenger vessels, the Secretary of the department in which the Coast Guard is operating may initiate a rulemaking to prescribe in regulations that operators of amphibious passenger vessels provide reserve buoyancy for such vessels through passive means, including watertight compartmentalization, built-in flotation, or such other means as the Secretary may specify in the regulations, in order to ensure that such vessels remain afloat and upright in the event of flooding, including when carrying a full complement of passengers and crew.

(2) INTERIM REQUIREMENTS.—Not later than 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall initiate a rulemaking to implement interim safety policies or other measures to require that operators of amphibious passenger vessels operating in waters subject to the jurisdiction of the United States, as defined in section 2.38 of title 33, Code of Federal Regulations (or a successor regulation) comply with the following:

(A) Remove the canopies of such vessels for waterborne operations, or install in such vessels a canopy that does not restrict either

horizontal or vertical escape by passengers in the event of flooding or sinking.

(B) If the canopy is removed from such vessel pursuant to subparagraph (A), require that all passengers don a Coast Guard type-approved personal flotation device before the onset of waterborne operations of such vessel.

(C) Install in such vessels at least one independently powered electric bilge pump that is capable of dewatering such vessels at the volume of the largest remaining penetration in order to supplement the vessel’s existing bilge pump required under section 182.520 of title 46, Code of Federal Regulations (or a successor regulation).

(D) Verify the watertight integrity of such vessel in the water at the outset of each waterborne departure of such vessel.

(b) REGULATIONS REQUIRED.—Not later than 2 years after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall initiate a rulemaking for amphibious passenger vessels operating in waters subject to the jurisdiction of the United States, as defined in section 2.38 of title 33, Code of Federal Regulations (or a successor regulation). The regulations shall include, at a minimum, the following:

(1) SEVERE WEATHER EMERGENCY PREPAREDNESS.—Requirements that an operator of an amphibious passenger vessel—

(A) check and notate in the vessel’s logbook the National Weather Service forecast before getting underway and periodically while underway;

(B) in the case of a watch or warning issued for wind speeds exceeding the wind speed equivalent used to certify the stability of an amphibious passenger vessel, proceed to the nearest harbor or safe refuge; and

(C) maintain and monitor a weather monitor radio receiver at the operator station that may be automatically activated by the warning alarm device of the National Weather Service.

(2) PASSENGER SAFETY.—Requirements—

(A) concerning whether personal flotation devices should be required for the duration of an amphibious passenger vessel’s waterborne transit, which shall be considered and determined by the Secretary;

(B) that operators of amphibious passenger vessels inform passengers that seat belts may not be worn during waterborne operations;

(C) that before the commencement of waterborne operations, a crew member visually check that each passenger has unbuckled the passenger’s seatbelt; and

(D) that operators or crew maintain a log recording the actions described in subparagraphs (B) and (C).

(3) TRAINING.—Requirement for annual training for operators and crew of amphibious passenger vessels, including—

(A) training for personal flotation and seat belt requirements, verifying the integrity of the vessel at the onset of each waterborne departure, identification of weather hazards, and use of National Weather Service resources prior to operation; and

(B) training for crewmembers to respond to emergency situations, including flooding, engine compartment fires, man overboard situations, and in water emergency egress procedures.

(4) RECOMMENDATIONS FROM REPORTS.—Requirements to address recommendations from the following reports, as practicable and to the extent that such recommendations are under the jurisdiction of the Coast Guard:

(A) The National Transportation Safety Board’s Safety Recommendation Reports on the Amphibious Passenger Vessel incidents

in Table Rock, Missouri, Hot Springs, Arkansas, and Seattle, Washington.

(B) The Coast Guard's Marine Investigation Board reports on the Stretch Duck 7 sinkings at Table Rock, Missouri, and the Miss Majestic sinking near Hot Springs, Arkansas.

(5) INTERIM REQUIREMENTS.—The interim requirements described in subsection (a)(2), as appropriate.

(C) PROHIBITION ON OPERATION OF NON-COMPLIANT VESSELS.—Commencing as of the date specified by the Secretary of the department in which the Coast Guard is operating pursuant to subsection (d), any amphibious passenger vessel whose configuration or operation does not comply with the requirements under subsection (a)(2) (or subsection (a)(1), if prescribed) may not operate in waters subject to the jurisdiction of the United States, as defined in section 2.38 of title 33, Code of Federal Regulations (or a successor regulation).

(d) DEADLINE FOR COMPLIANCE.—The regulations and interim requirements described in subsections (a) and (b) shall require compliance with the requirements in the regulations not later than 2 years after the date of the enactment of this Act, as the Secretary of the department in which the Coast Guard is operating may specify in the regulations.

(e) REPORT.—Not later than 180 days after the promulgation of the regulations required under subsection (a), the Commandant of the Coast Guard shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives regarding the status of the implementation of the requirements included in such regulations.

The bill (S. 1031), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

MR. HAWLEY. Mr. President, I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2021—Conference Report—Continued

The PRESIDING OFFICER. The Senator from Texas.

CORONAVIRUS

MR. CORNYN. Mr. President, as we all know, the clock is ticking down on coronavirus relief. Both the Senate and the House are set to wrap up the work of the 116th Congress in just a few days, but we don't appear to be much closer to a deal now than we were this summer.

Over the last few months, my colleagues and I on this side of the aisle have attempted to reach an agreement that could gain bipartisan support. We have proposed a number of targeted packages which have included funding for the most urgent bipartisan priorities, things like vaccine development, schools, and the Paycheck Protection Program. We have tried to pass individual proposals that have had near unanimous support, like a 1-week extension of unemployment insurance benefits.

At every turn in the runup to the election, our Democratic colleagues have simply stood in the way. It is not just Republicans' ideas they have rejected. The administration has repeat-

edly tried to negotiate with the Speaker, with the latest attempt being earlier this week. Oddly enough, our Democratic colleagues have blasted the offer as being an attempt to obstruct negotiations. This is a parallel universe, where up is down and down is up, apparently, for our Democratic colleagues.

Only in the Democrats' alternate reality is more compromise an example of obstruction. Based on everything we have seen so far, it appears they have no real interest in reaching a deal. And I conclude that only because they have stood in the way of every attempt so far to come to an agreement and seem perfectly content to maintain the status quo, which nobody claims to like, even as the American people continue to call for additional support.

Almost every Member of Congress has said they want to pass another relief bill before the end of the year, but as we stand here today, we are empty-handed despite the fact that we agree on a majority of what should be in that package. Republicans and Democrats agree that funding for schools, vaccines, the Paycheck Protection Program, and assistance for the hardest hit Americans is desperately needed. But there appear to be two hangups in the negotiations: liability protections and State and local aid.

I think it is safe to say, in all fairness to our Democratic friends, they just don't support liability protections, whether it is for healthcare workers, hospitals, schools, churches, or nonprofits that can be hit with a wave of litigation unless we act. And we know on this side of the aisle Republicans don't support hundreds of billions of dollars of new money to bail out cities and States that have been mismanaged for decades.

With neither side willing to budge, Leader MCCONNELL made the only reasonable suggestion I have heard in light of the stalemate. He said that setting these two issues aside seems to make sense so we can do what we can do and include all the things we agree on in the coming days while we hold off those more controversial pieces until the start of the next year.

Our friends across the aisle apparently have never heard of the 80-20 rule, and that makes sense, I guess, in this alternate reality where NANCY PELOSI said that "nothing is better than something." I have never heard anyone say that before. It is rather shocking to me.

Based on their reception of the long list of proposals so far this year, I am sure it will come as no surprise that they have basically rejected any entreaties that we have made. It is clear to me that they aren't approaching these negotiations by asking what is best for the 330 million people in this country; their concern appears to be what is best for them politically—certainly in the runup to the election, where they denied the American people the benefits of another COVID-19 relief

bill—or when it comes to liability protection, the trial lawyers.

Now, I am a recovering lawyer myself. I don't hold a grudge against lawyers earning a living. But the fact is, we ought to be concerned about the American people and not lawyers, who, I dare say, are probably doing pretty well relative to those who aren't getting a paycheck or are in lockdowns at home.

So our Democratic colleagues have employed the same all-or-nothing approach that has been their hallmark, and, as the American people have learned over and over again, it almost always leads to nothing. I mean, so much of this is so obvious, it seems to me, you almost are embarrassed to say it, but when your attitude is "all or nothing," you usually end up with nothing. And that is where we are today—no unemployment benefit extension, no funding for schools, no money for vaccine distribution, no second draw on the Paycheck Protection Program. Nothing. Zip. Nada.

Our Democratic colleagues have proven over and over again that either they don't want to negotiate or they have forgotten how. They aren't interested in compromise, which is the only way you get things done here. It sounds like they are more interested in messaging than they are in actually achieving a result—making a law, something the President will sign after it passes both Houses.

So our colleagues need to make a decision, and they need to make it quickly. Are they willing to work with us and send a bill to the President that includes most of what they would like to see in a relief bill, if not all, or are they willing to tank everything—funding for State and local government, vaccines, schools, small businesses, families who are hurting and anxious and in financial distress? Are they willing to throw them under the bus if they can't get everything they want? Again, the choice seems so obvious to me. I am sorry I have to say it, but it has become obvious that, so far, Democratic leadership has no interest in resolving these negotiations in a way that gets them most of what they want without taking the risk that we end up empty-handed.

TRIBUTE TO PAT ROBERTS

MR. President, this morning, during the remarks by the senior Senator from Kansas, I was stuck in the Judiciary Committee, and so I wasn't able to be here, although I have read and heard reported back to me some of the best moments of his remarks, and I just wanted to come here to the floor and say a few words about our friend PAT ROBERTS as we prepare to bid him farewell.

PAT has represented the people of Kansas for four decades—16 years in the House and 24 years here in the Senate—and I bet it seems like a blink of an eye. During that time, he has established himself as a national leader—in agriculture in particular—a dependable